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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,269	03/19/2004	Stephen G. Armstrong	P68.2-11514-US01	7435

490 7590 07/26/2007  
VIDAS, ARRETT & STEINKRAUS, P.A.  
SUITE 400, 6640 SHADY OAK ROAD  
EDEN PRAIRIE, MN 55344

EXAMINER
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MORGAN JR, JACK HOSMER

ART UNIT	PAPER NUMBER
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3782

MAIL DATE	DELIVERY MODE
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07/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/804,269

Applicant(s)

ARMSTRONG, STEPHEN G.

Examiner

Jack H. Morgan

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,23-26 and 29-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,23-26 and 29-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 and 19 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/24/07</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 29-36 have been renumbered 27-34.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 31 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 31 recites the limitation that the valve according to claim 2 is a two-way valve, however claim 2 recites the limitation that the valve of claim 1 is a one-way valve. One-way and two-way valves are mutually exclusive, therefore the claimed progression is not enabled. For the purposes of examination, claim 31 is taken to depend from claim 1 directly.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 7 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (US 2002/0009240 A1). Anderson discloses a reclosable bag (Fig 1) having a bag portion having panes (12) defining a bag interior and opening, the opening configured to be selectively opened and closed, and an element (16) located at an edge of the bag, the element having a passageway (Fig 2, W1) extending between the bag interior and an outside area and a valve (Fig 2, 28) for selectively opening and closing the passageway when the opening is closed, the valve being a one-way flapper valve configured to allow access to the outside area from the bag interior and block access from the outside area to the bag interior, and said element being located between two edges of the bag which do not define the bag opening (the opening being 15).

4. Claims 1, 2, 7, 23-24, 26, 29-31 and 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Savicki (WO 02/076258 A1). Savicki discloses a reclosable bag (Fig 1) having a bag portion having panes (122, 124) defining a bag interior and opening, the opening configured to be selectively opened and closed, and an element (Fig 3, 197 and 198) located at an edge of the bag, the element having a passageway

(197) extending between the bag interior and an outside area and a valve (198) for selectively opening and closing the passageway when the opening is closed.

In regards to claims 2 and 7, Savicki further discloses a one-way valve, specifically a ball valve to selectively open and close the passageway ([0065] last 3 lines).

In regards to claims 23-24, Savicki discloses opposed interlocking features (Fig 2) comprising a tongue (164, 165) and groove (between 175 and 176) sized and shaped to form a seal when engaged, and said element comprising a slider in the bag opening, said slider having opposed side faces configured to slidably engage with the interlocking features of the seal (See Fig 1-3).

In regards to claims 26 and 29-30, Savicki discloses the slider having a shape complementary to the shape of the end of the bag opening to permit the slider to seal against the end of the bag opening (Figs 6-8), the slider containing a first detent (252) and the bag having a second detent (136) configured to engage one another (Fig 8) by producing a snap fit when the slider is moved into the closed position (Fig 7).

In regards to claim 31, Savicki discloses the valve being a two-way valve ([0065]).

In regards to claims 33-34, Savicki discloses the passageway and means for opening or closing the passageway being in the slider, and the one way valve either going from the bag interior to the exterior or vice versa.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Savicki (WO 02/076258 A1) in view of Ostensen et al. (US 4,725,268). Savicki discloses all the limitations of the claims except for the one-way (such as ball or flapper) valve allowing access into the bag interior from the outside area. Ostensen et al. disclose a bag (Fig 1, 10) having a one-way valve to allow fluids (urine) into the bag without allowing fluids bag out of the bag through the valve. It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose the direction of flow of the one-way valve disclosed by Savicki in order to allow fluid into the bag without allowing it out of the bag through the valve as taught by Ostensen et al.

6. Claims 4-6 and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savicki (WO 02/076258 A1) in view of ErkenBrack (US 6,964,519). Savicki discloses all the limitations of the claims except for the one way valve being configured to allow access to the outside area from the bag interior, and the passageway configured to accept the coupling of a removable suction device to permit access to the bag interior upon the application of suction by said device. ErkenBrack discloses a valve

of similar structure to Savicki (See Fig 13) that is configured to accept the coupling of a removable suction device (7) in order to remove air from inside the bag. It would have been obvious to one of ordinary skill in the art at the time of invention to create the valve of Savicki in the shape taught by ErkenBrack in order to attach a removable suction device to remove the air from inside the bag.

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Savicki (WO 02/076258 A1) in view of Plourde (US PG-Pub 2003/0235351). Savicki discloses all the limitations of the claim except for the slider having opposed side faces to slidably engage with one of said opposed interlocking features along the bag opening where the interlocking features are a tongue and groove and the side face which slidably engages the tongue contains a groove and the side face which slidably engages the groove contains a tongue. Plourde discloses an assembly for a slider mounted inside a zipper for reclosable packaging (Fig 3) where a slider (20) has side faces (side faces of slider 20 shown in figure 3) one with a groove (between 66 and 64 or between 70 and 64) to slidably engage the tongue interlocking feature (28, 34, 30), and the other with a tongue (68 or 70) to slidably engage the groove interlocking feature (38, 40, 42, 44, 46) in order to move the two interlocking features together and apart to open and close the bag (see figures 2 and 3, [0036-0039]). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to create the slider of Savicki with the opposed tongue and groove side faces of Plourde in order to move the interlocking features together and apart to open and close the bag.

***Response to Arguments***

8. Applicant's arguments of 24 April 2007 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



10. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack H Morgan  
Examiner  
Art Unit 3782



NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER